UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD Washington, D.C.

FORTUNA ENTERPRISES, L.P., A DELAWARE LIMITED PARTNERSHIP D/B/A THE LOS ANGELES AIRPORT HILTON HOTEL AND TOWERS

Respondent

Cases 31-CA-27837

31-CA-27954

31-CA-28011

and

UNITE HERE, LOCAL 11

Charging Party

COUNSEL FOR THE GENERAL COUNSEL'S MOTION REQUESTING PERMISSION TO FILE A LATE ANSWERING BRIEF

Pursuant to Section 102.111(c) of the Rules and Regulations of the National Labor Relations Board, herein called the Board, Counsel for the General Counsel respectfully moves that the Board accept his late-filed Answering Brief to the Respondent's Exceptions to the Administrative Law Judge's Decision (the "Answering Brief"). This motion is premised on two bases: the Answering Brief was filed one minute late because of excusable neglect and the Board's acceptance of the late-filed Answering Brief would cause no undue prejudice to any party.

The Answering Brief in this matter was due by 5:00 p.m. Eastern Standard Time ("EST") on January 30, 2009. On January 30, 2009, at 3:04 p.m. EST, the secretary to the

Regional Attorney sent the Answering Brief to the parties via e-mail. Affidavit of Mara Estudillo, Attachment A. Two hours later, at 5:01 p.m. EST, Ms. Estudillo filed the Answering Brief in the Board's e-Room. Estudillo Affidavit, pp. 1 and 2.

Counsel for the General Counsel contends that the late filing of the Answering Brief in the Board's e-Room was made pursuant to excusable neglect, as Ms. Estudillo failed to account for the three-hour difference between Pacific and Eastern Standard Times. See Estudillo Affid., p. 1.

Counsel for the General Counsel further contends that, should the Board accept this late-filed Answering Brief, no party would be unduly prejudiced. First, all parties were sent, and received, the Answering Brief nearly two hours <u>prior</u> to the deadline. Second, no party objects to the Board's acceptance of the late-filed Answering Brief. See Affidavit of Supervisory Attorney Brian Gee, p. 1. Third, the Answering Brief was filed in the e-Room only one minute after the deadline.

Based on the foregoing, Counsel for the General Counsel contends that he has demonstrated good cause in this matter and therefore respectfully requests that the Board grant this motion and accept the late-filed Answering Brief.

Dated at Los Angeles, California, this 12th day of February 2009.

Rudy L. Fong-Sandoval

Counsel for the General Counsel

National Labor Relations Board, Region 31 11150 W. Olympic Boulevard, Suite 700

Los Angeles, CA 90064

AFFIDAVIT OF MARA ESTUDILLO IN SUPPORT OF COUNSEL FOR GENERAL COUNSEL'S MOTION REQUESTING PERMISSION TO FILE A LATE ANSWERING BRIEF

1	I am the Secretary to the Regional Attorney of NLRB Region 31 of the National
2	Labor Relations Board, located at 11150 West Olympic Blvd., Suite 700, Los Angeles,
3	California.
4	I worked with Counsel for the General Counsel Rudy Fong-Sandoval in serving
5	the ANSWERING BRIEF OF COUNSEL FOR THE GENERAL COUNSEL TO THE
6	RESPONDENT'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S
7	DECISION (hereinafter Answering Brief) to the parties involved in Cases 31-CA-27837,
8	31-CA-27954, and 31-CA-28011.
9	On Friday, January 30, 2009, via email, at 3:04 p.m. Eastern Standard Time, I
10	sent the Answering Brief via e-mail to Respondent's counsel Stephen Lueke, Respondent
11	representative Grant Coonley, Charging Party counsel Eric Myers, and Charging Party
12	representative Soledad Garcia. I also sent the Answering Brief via e-mail directly to
13	Lester A. Heltzer, Executive Secretary of the National Labor Relations Board. See
14	Attachment A.
15	On Friday, January 30, 2009, at 5:01 Eastern Standard Time, I submitted the
16	Answering Brief to the Board through its e-filing procedures. I mistakenly filed the

- 1 Answering Brief late because I failed to account for the three-hour difference between
- 2 Pacific and Eastern Standard Time.
- 3 I have read this statement consisting of (2) pages, including this page, I have personal
- 4 knowledge of the facts stated herein, fully understand its contents, and I certify and swear
- 5 under penalty of perjury that it is true and correct to the best of my knowledge and belief.

Dated at Los Angeles, California, this 12th day of February, 2009.

Mara Estudillo, Affiant.

Studille

Estudillo, Mara

From:

Estudillo, Mara

Sent:

Friday, January 30, 2009 12:04 PM

To:

'sgarcia@herelocal11.org'; 'slueke@fordharrison.com'; 'ebm@dcbsf.com';

'grant.coonley@hilton.com'; HELTZER, LES (Hdqs)

Subject:

LAX Hilton Hotel & Towers

Attachments: BRF.31-CA-27837.pdf; SVC.31-CA-27837. Ans. Brf.pdf

Tracking:

Recipient

Read

'sgarcia@herelocal11.org' 'slueke@fordharrison.com'

'ebm@dcbsf.com'

'grant.coonley@hilton.com'

HELTZER, LES (Hdqs)

Read: 1/30/2009 2:22 PM

Gee, Brian

Read: 1/30/2009 12:08 PM

Ladies and Gentlemen:

Attached please find a copy of Counsel for the General Counsel's Answering Brief to Respondent's Exceptions to the Administrative Law Judge's Decision and Certificate of Service in LAX Hilton Hotel and Towers Case Nos.: 31-CA-27837, 31-CA-27954, and 31-CA-28011.

If you have any questions concerning this matter or if you have any problems opening the e-mail attachment, please call Supervisory Attorney Brian Gee at 310-235-7145.

Thank you.

Mara Estudillo Secretary to the Regional Attorney NLRB, Region 31 310-235-7123

ATTACHMENT A

AFFIDAVIT OF BRIAN GEE IN SUPPORT OF COUNSEL FOR GENERAL COUNSEL'S MOTION REQUESTING PERMISSION TO FILE A LATE ANSWERING BRIEF

1	I am a Supervisory Attorney with of NLRB Region 31 of the National Labor
2	Relations Board, located at 11150 W. Olympic Blvd., Suite 700, Los Angeles, California. I
3	supervise Rudy Fong-Sandoval, Counsel for the General Counsel in the above-captioned
4	matter.
5	On February 5, 2009, I spoke with Respondent Counsel Stephen Lucke over the
6	telephone on behalf of Mr. Fong-Sandoval. When I asked Mr. Lueke if Respondent
7	objected to the Board accepting Counsel for the General Counsel's late-filed Answering
8	Brief, Mr. Lueke said Respondent had no objections. I then telephoned Charging Party
9	Union counsel Eric Myers and asked him if the Charging Party Union objected to the Board
10	accepting Counsel for the General Counsel's late-filed Answering Brief. Mr. Myers stated
11	that the Union had no objections.
12	
13	I have read this statement consisting of this page only, I have personal knowledge of the facts
14	stated herein, fully understand its contents, and I certify and swear under penalty of perjury
15	that it is true and correct to the best of my knowledge and belief.
16	Dated at Los Angeles, California, this 12th day of February, 2009.

Brian Gee, Affiant

Re: Fortuna Enterprises, L.P., a Delaware Limited Partnership d/b/a

The Los Angeles Airport Hilton Hotel and Towers

Case Nos.: 31-CA-27837, 31-CA-27954 and 31-CA-28011

CERTIFICATE OF SERVICE

I hereby certify that I served the attached COUNSEL FOR THE GENERAL COUNSEL'S MOTION REQUESTING PERMISSION TO FILE A LATE ANSWERING BRIEF on the parties listed below, on the 12th day of February, 2009.

VIA E-MAIL & OVERNIGHT FEDERAL EXPRESS

Lester A. Heltzer, Executive Secretary National Labor Relations Board Office of the Executive Secretary 1099 14th Street, N.W. Washington, D.C. 20005

E-MAIL: lester.heltzer@nlrb.gov

VIA E-MAIL

Stephen R. Lueke, Esq. Ford & Harrison, LLP

E-MAIL: slueke@fordharrison.com

Eric B. Myers, Esq. Davis, Cowell & Bowe LLP E-MAIL: ebm@dcbsf.com

Grant Coonley, General Manager LAX Hilton Hotel E-MAIL: grant.coonley@hilton.com

Soledad Garcia, Esq. UNITE HERE, Local 11

E-MAIL: sgarcia@herelocal11.org

Mara Estudillo on behalf of Rudy L. Fong Sandoval, Esq. Counsel for the General Counsel National Labor Relations Board Region 31

11150 West Olympic Blvd., Suite 700 Los Angeles, CA 90064-1824